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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
Estate of VALERIE YOUNG, by VIOIA YOUNG, as
Administratrix of the Estate of Valerie Young,
and in her personal capacity, SIDNEY YOUNG, and
LORETTA YOUNG LEE,

Plaintiffs,

-against- Index No.
07CV6241

STATE OF NEW YORK OFFICE OF MENTAL RETARDATION
AND DEVELOPMENTAL DISABILITIES, PETER USCHAKOW,
personally and in his official capacity, JAN
WILLIAMSON, personally and in her official
capacity, SURESH ARYA, personally and in his
official capacity, KATHLEEN FERDINAND, personally
and in her official capacity, GLORIA HAYES,
personally and in her official capacity, DR.
MILOS, personally and in his official capacity,
Defendants.

-----X

EXAMINATION BEFORE TRIAL of the
Plaintiff, VIOLA YOUNG, taken by the Defendant,
pursuant to Notice, held at the Office of the
Attorney General, 120 Broadway, New York, New
York 10271, on January 29, 2008, at 10:20 a.m.,
before a Notary Public of the State of New York.

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Q. Then during the years, what else in
3 terms of medical problems did Valerie have? What
4 medical problems was she diagnosed with?

5

A. Valerie she had surgery one time it
6 was a like a lymph node. They did surgery on
7 that.

8

Q. What other medical problems did she
9 have as the years went by?

10

A. I am not sure what it was.

11

Q. Did you just say, "I am not sure
12 what it was?" I am not sure that I heard what
13 you said?

14

A. I am trying to think.

15

Q. Why don't you do it this way. You
16 were talking about her left arm, sometimes her
17 right arm. You mentioned the lymph node, any
18 other parts of her body were causing her
19 problems?

20

A. (No response).

21

Q. Problems with her legs?

22

A. Oh, yes.

23

Q. When did she first start having
24 problems with her legs?

25

A. One time Valerie was in the --

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Exhibit 45

1 V, YOUNG

2 MR. KAISER: Objection.

3 A. -- Valerie was in the hospital.
4 Valerie start having problems in the last three
5 years. She was limping.

6 Q. With her legs?

7 A. Yes. On the end.

8 Q. Why don't you continue?

9 A. On the end Valerie would be
10 limping, I would ask the doctor what it was. He
11 would tell me sometimes it was from her condition
12 and I don't remember what condition he would be
13 talking about.

14 Q. You said you would ask the doctor,
15 which doctor was that?

16 A. She was limping more with that
17 Dr. Milos. On the end I was complaining about
18 her limping then her feet started swelling up.
19 I would ask him what is he doing about it. He
20 would have her in this big wheelchair and tell me
21 they elevate her foot. They would put her foot
22 in a chair to elevate it. You know, mentally
23 challenge people, I used to ask them, why don't
24 he put her -- like they didn't order stockings.
25 When your foot is swelling, they didn't give her

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V, YOUNG

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2 like water pills, they didn't put those special
3 stockings on her legs. Like they didn't take her
4 for a CAT scan or MRI.

5 Q. Are you saying you didn't agree
6 with the medical treatment they were providing
7 her?

8 MR. KAISER: Objection.

9 A. No, I didn't agree with some of it.

10 Q. Now, regarding her leg, did they
11 give you a diagnosis? Did they tell you what
12 they thought the medical condition was?

13 A. No, they didn't. A lot of things
14 they didn't tell me. Just like you said, it's
15 blacked out. When I sent out for the
16 investigation I wanted to know why there is
17 certain things there that they don't want me to
18 see.

19 MR. VELEZ: I provided Counsel with
20 a copy of documents that are redacted, are not
21 blacked out so --

22 MR. KAISER: Objection. Off the
23 record.

24 (Whereupon, a discussion was
25 held off the record.)

V, YOUNG

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2 Q. We were talking about Valerie's
3 medical condition while she was at BBC. We were
4 focusing on her leg. Now, I asked you if they
5 let you know what was wrong with her leg. Did
6 they give you a diagnosis? I just want to
7 clarify what your answer is, did they tell you
8 and you don't remember?

9 A. I remember the last thing they told
10 me was that she had a dropped foot. Yes, a
11 dropped foot and they were getting a brace and
12 they never did.

13 Q. Did they explain to you what they
14 meant by dropped foot?

15 A. No.

16 Q. What else did they tell about her?

17 A. All I know is she couldn't walk --
18 I mean she could walk. They were sending her for
19 therapy. You know, they let her sit on a
20 wheelchair too long and they didn't let her
21 exercise. The only time she walked was when she
22 went to therapy on Tuesday and Thursday. The
23 therapist told me that she needed to be walked
24 around the area during the evening. And they
25 didn't do that.

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V, YOUNG

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Q. Who told you that they don't walk
3 her around?

4

A. I didn't say they didn't walk
5 around. I said they should have walked her
6 around. When I spoke to Dr. Milos, he said the
7 therapist walk her. She only went to see the
8 therapist on Tuesday and Thursdays. She needed
9 like on weekends to be walked around the room.
10 They didn't do it. You sit down all day, you
11 have to walk around if your feet were swelling.

12

Q. Maybe I misunderstood. Are you
13 saying they didn't walk her around or I thought
14 somebody told you they didn't walk her around?

15

A. I don't think they walked her
16 around.

17

Q. That's your opinion then?

18

A. (No response).

19

Q. Did someone tell you that or are
20 you saying you don't think they walked her
21 around?

22

A. I don't know if it was ordered. It
23 should have been documented to do that. Nobody
24 told me that there was an order for her to be
25 walked around the room. You know, what you call

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Exhibit 45

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2 it.

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Q. If she could walk around, why was
4 she given a wheelchair?

5

MR. KAISER: Objection.

6

A. They said she had a dropped foot.
7 I don't know because she was always falling.

8

Q. When you visited her, was she
9 always in a wheelchair?

10

A. In the last few months, yes. She
11 was always in a wheelchair and that wheelchair
12 wasn't even comfortable. It was an old fashion
13 wheelchair.

14

Q. So you are saying April, May, June
15 of 2005, every time you visited her she was in a
16 wheelchair?

17

A. She would be in a wheelchair.

18

Q. During those visits you never saw
19 her walking around or even running around?

20

A. I took her myself try to walk her
21 around.

22

Q. What happened?

23

A. You would have to hold her, you
24 need two people. I would ask, couldn't she have
25 one-to-one, and they wouldn't give it to her.

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Q. Did you talk to anybody about her
being walked around more?

4

A. Yes.

5

Q. Who did you talk to?

6

7

A. I talked to Dr. Milos and he told
me the therapist walks her.

8

9

10

11

Now, the therapist goes home during
certain time during the day. I spoke to the
therapist and he told me that she should be
walking around, like other times.

12

13

14

15

If you have problems with your legs
swelling up, they have stockings for the wear,
they give you Coumadin, they give you Aspirin for
blood clots. She didn't get that.

16

17

18

Q. Did you discuss the treatment with
them, that she should be getting these stockings,
medications? Who did you discuss that with?

19

MR. KAISER: Objection.

20

21

A. I didn't discuss it because you
can't tell Dr. Milos nothing.

22

23

24

Q. So when you saw that Valerie was
having this problem with her leg that they told
you it was dropped foot you say?

25

A. Yes, he told me they were going to

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V, YOUNG

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2 order a brace for her foot.

3 Q. When was this?

4 A. During the last months. It was
5 never -- that was never ordered.

6 Q. What kind of a brace? Did they
7 tell you?

8 A. Some brace for her foot, I am not a
9 doctor. I don't know what kind of a brace.

10 Q. What else did they tell you they
11 were going to do for her?

12 A. All doctor Dr. Milos told me was to
13 keep her foot elevated.

14 Q. So Dr. Milos told you that when she
15 went to therapy that she was walked around by the
16 therapist, that they also elevated her legs?

17 A. Yes. And Valerio is not going to
18 sit in a chair with her legs up in the chair. It
19 wasn't the wheelchair where they had the thing to
20 elevate your legs in a chair. They had her legs
21 in a chair.

22 Q. When you visited her, she was
23 sitting in a wheelchair?

24 A. Yes.

25 Q. She didn't have any problems

1 V, YOUNG 61

2 sitting in a wheelchair either?

3 MR. KAISER: Objection.

4 A. That is all she could do was sit
5 there because she couldn't get up.

6 Q. Why couldn't she get up?

7 MR. KAISER: Objection.

8 A. At that time they said she would
9 fall. I guess, if she tried to walk with her
10 foot.

11 Q. Didn't she still try to get up?
12 Wouldn't she still try to get up while she was in
13 the wheelchair?

14 MR. KAISER: Objection.

15 A. Not while I was there. Valerie she
16 couldn't talk. Valerie couldn't express herself.
17 When Valerie was home I could look at her and see
18 when something was bothering her. I just about
19 knew myself just being around her, I knew when
20 something was wrong with her.

21 Q. Now, when she was sitting in the
22 wheelchair, would she sit still or move her
23 around legs around?

24 A. No.

25 Q. No what?

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A. No. She wouldn't move around the last few months.

Q. She would just sit still?

A. Yes, they didn't have to restrain her. She would be sitting there.

Q. Would she try to sometimes kick out of somebody who was walking by her if she was agitated?

A. Not when she was in a wheelchair, I don't know if she did it other times or not.

Q. How many times did you see her in the wheelchair sitting down?

A. Every time I went there in the last few months she was in the wheelchair.

MR. KAISER: Objection.

Q. Would you say April, May and June?

A. Yes. And her legs would be swelling up too I believe. I think her whole body was swelling up. I know her legs would be swollen. I could see that.

Q. During the last few months, she would walk around with the therapist, are there any other times that you are aware that she would walk?

1 V, YOUNG

2 MR. KAISER: Objection.

3 A. No. She needed to have been
4 walking around, not only at the therapy, you need
5 to walk if your legs are swollen. If my leg
6 swell, I take water pills. I take Aspirin, it
7 keeps the blood thinner. It keeps the blood from
8 clotting. I didn't see any of that. He didn't
9 tell me anything that he would prescribe for her.

10 Q. Did you speak to any of the aides
11 that were around Valerie when you would visit
12 her, about whether she was being walked around?

13 A. No, I didn't hear any of them say
14 that they walked her.

15 Q. Did you ask them if she was being
16 walked around?

17 A. The only thing I think she would
18 walk around is maybe when they give her a shower
19 and they said she was always falling. That I
20 didn't understand either. If you keep on
21 falling, you are supposed sit her out and take
22 some tests to see why you are falling.

23 Q. Did you ask any of the BBC staff,
24 when you weren't around, if Valerie was walking
25 around or was being walked around?

1 V, YOUNG

2 MR. KAISER: Objection.

3 A. Yes, I would ask if they walked her
4 around.

5 Q. What did they tell you?

6 A. No, no more than when they get her
7 ready to put her in the shower. It wasn't done
8 while I was there. I would be there evenings, I
9 would go there all different times.

10 Q. How long would you stay when you
11 visited?

12 A. On Sundays I would stay three to
13 four hours because I didn't go to church. I
14 would go there and I would spent time with her.

15 Q. The other days of the week, how
16 long would you stay?

17 A. I would go when she was coming from
18 the program, a lot of times I would be there
19 waiting for her when she would be coming from the
20 program. Sometimes I would stay until after
21 supper and feed her myself when she couldn't feed
22 herself.

23 Q. How much time would you end up
24 spending with her?

25 A. A couple of hours.

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V, YOUNG

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Q. Would you see her walk during those
3 couple of hours?

4

A. Not in the last months, no.

5

Q. Now, the times that you weren't
6 there except for those two hours some days, you
7 don't know whether she was walking around or
8 being walked around by other staff, correct?

9

A. No one told me they walked her, I
10 would ask.

11

MR. KAISER: Objection.

12

A. I didn't see anyone walking.

13

Q. Did any of the defendants tell you
14 that she wasn't being walked around?

15

A. What defendants?

16

Q. In this lawsuit you --

17

MR. KAISER: Objection.

18

Q. -- you have named Peter Uschakow,
19 Jan Williamson, Suresh Arya, Kathleen Ferdinand,
20 Gloria Hayes and Dr. Milos.

21

Did any of them tell you that
22 Valerie wasn't being walked around or wasn't
23 walking around on her own?

24

MR. KAISER: Objection.

25

A. No, she wasn't walking around on

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2 her own. If she was walking around with a
3 dropped foot, she would fall, you would have to
4 assist her.

5 Q. Did any of them tell you that she
6 wasn't being walked around with assistance; did
7 any of the defendants?

8 MR. KAISER: Objection.

9 A. No.

10 Q. Didn't they give Valerie some kind
11 of a helmet or head padding?

12 A. I did see that one time, but I
13 don't know if she would keep it on her head. It
14 wasn't the right kind of helmet, I know that.

15 Q. What was the purpose of that?

16 MR. KAISER: Objection.

17 A. Because she was always falling.
18 I was always told that she would have all these
19 incidents. They always told me she would be
20 falling. Like there was always stitches
21 somewhere, if it wasn't over her eye, it would be
22 on her head. The last week of her life, the last
23 few weeks there was one thing I didn't
24 understand. I asked Ms. Ferdinand and she didn't
25 know. I asked Gloria Hayes, but nobody knew at

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V, YOUNG

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2 that time what happened to Valerie. I spoke to
3 Peter. Peter said he was going to get back to
4 me. He was going to find out, but she died
5 before I found out. It was a big gash right back
6 here (indicating). They could not tell me what
7 happened to Valerie back here (indicating).

8 Q. But getting back to the helmet, the
9 reason they got her the helmet was because they
10 still wanted her to keep on walking and in case
11 she fell, the helmet would help protect her;
12 is that correct?

13 MR. KAISER: Objection.

14 A. It was there, but she didn't have
15 it on all the time.

16 Q. The reason they got her the helmet
17 was to protect her when she was walking in case
18 she fell down, was that your understanding why
19 they wanted her to have the helmet?

20 MR. KAISER: Objection.

21 A. I don't know why they gave her the
22 helmet. It wasn't the right helmet. He told me
23 he was going to get her another one. That one
24 was a little, small, short thing.

25 Q. You are saying the last few months,

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2 you only saw her in the wheelchair, that doesn't
3 mean that when you weren't there, she would have
4 been walking around by herself or assistance of
5 others?

6 MR. KAISER: Objection.

7 A. She couldn't walk by herself.

8 Q. How about with assistance of
9 others?

10 A. If they had walked her, she could
11 have, you know, if they assisted her.

12 Q. When was the last time you saw
13 Valerie walking on her own?

14 A. You know, I was sick. The last few
15 weeks, I remember I went to see Valerie, Valerie
16 was in the program. First Ms. Ferdinand called
17 and said to bring Valerie over.

18 Then she said she didn't have
19 enough staff. I didn't feel like walking over to
20 Building 5 to see her. Then I was admitted in
21 the hospital. I didn't see her. Like I wanted
22 Valerie to -- you know, she said, "Mom, I want to
23 go home, mom, I want to go home."

24 I asked Ms. Ferdinand and she would
25 always say she doesn't have staff. I would say

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V, YOUNG

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2 one staff could go with me. I could manage.

3 Q. When was that?

4 A. A few weeks before she died.

5 Q. My question was, when was the last
6 time you saw Valerie walking on her own,
7 ambulating on her own?

8 A. I told you it was a while. They
9 kept on saying she had a dropped foot, I didn't
10 see Valerie walk. You remember when my daughter
11 said that we went. I took her, my grandson and
12 we stood her up and let her walk a few steps that
13 Sunday. We both were holding her. That was the
14 last time I saw her walking, just making a few
15 steps, we didn't walk that far.

16 Q. It was a few weeks before she
17 passed away?

18 A. Yes.

19 Q. You mentioned before that there
20 were swelling in her legs?

21 A. In her legs around her ankles.

22 Q. Did you discuss that with the
23 doctors? Did they tell you why she had that
24 swelling?

25 A. No, because she had an appointment

1 V, YOUNG

2 for something, but I don't know.

3 Q. Do you think that swelling in her
4 leg is what ended up leading to her death?

5 MR. KAISER: Objection.

6 A. I believe yes, because when you
7 swell up, sometimes it could be a blood clot.

8 Q. Did you think when you saw that
9 swelling that that's what was going to happened
10 to Valerie that she would get a blood clot that
11 would kill her?

12 A. Did I think, I didn't think about
13 Valerie going like that. Oh, boy.

14 Q. So your answer is no, you didn't
15 think that?

16 MR. KAISER: Objection.

17 A. Nobody would think that she would
18 be going that quickly.

19 Q. But my question is, do you think
20 when you saw the swelling in her legs that
21 medical problem --

22 A. Nobody --

23 Q. Let me finish the question.

24 When you saw the swelling in her
25 legs, did you think that medical problem was

1 V, YOUNG

2 going to lead to her dying.

3 MR. KAISER: Objection.

4 A. Lead to her dying?

5 Q. When you saw the swelling in her
6 legs, did you feel that this was a dangerous
7 condition that might lead to her death?

8 MR. KAISER: Objection.

9 A. I worked in a hospital, I know it
10 could lead to her death. That is why I spoke to
11 Dr. Milos. I would ask him what he was doing, he
12 said that they were elevating her legs. That's
13 what he told me.

14 Q. What did you discuss with
15 Dr. Milos? When you said you spoke to him, what
16 exactly did you tell him?

17 A. I even asked him what was he doing
18 for Valerie. He said, he was elevating the legs,
19 he was going to get a brace for the dropped foot,
20 but he never did.

21 Q. Your concern was why she didn't
22 have better movement in her leg; is that right?

23 MR. KAISER: Objection.

24 A. (No response).

25 Q. Isn't that why you were speaking to

1 V, YOUNG

2 Dr. Milos because you wanted her to have better
3 movement in her leg?

4 A. I wanted her to move around, I
5 wanted her to walk. You have to walk to keep the
6 circulation going.

7 Q. Did you discuss that with
8 Dr. Milos? Did you express to him that you were
9 concerned that she would have circulation
10 problem?

11 A. He knew I was concerned about that.

12 Q. Did you discuss with it with him?

13 A. Yes, I always go in there talk to
14 him.

15 Q. What did you tell him regarding
16 that?

17 A. Because I would see her leg would
18 be swollen. I don't know if he made appointments
19 or not.

20 Q. What I am still trying to find out
21 from you is, did you feel by her having that
22 dropped foot, having the swelling in her legs,
23 did you think that was a condition that was going
24 to end up killing her?

25 MR. KAISER: Objection.

1 V, YOUNG

2 A. I knew it was serious, that is why
3 I spoke to him.

4 Q. Why did you think it was serious?

5 A. I worked at oncology myself. I
6 know when your feet are swelling up, something
7 should be done. They should have stockings on.
8 If you think that you got a blood clot, if
9 anything like that, you are supposed to give
10 blood thinner and all of that stuff. I don't
11 remember him telling me anything like that.

12 Q. When you saw the swelling, and the
13 dropped foot, did you feel that was going to lead
14 to blood clot that's going to work its way up to
15 one of her organs and kill her?

16 MR. KAISER: Objection.

17 A. Why would you ask me that when you
18 know that if your feet is swollen and things like
19 that, they should be taken care of it. Tests
20 should be done. You should sent her out to be
21 evaluated.

22 Q. Do you know if tests were done on
23 her?

24 A. It wasn't explained to me. No one
25 called and told me anything like that.

1 V, YOUNG

2 Q. You are not sure --

3 A. Besides the last week I was sick.
4 You know, my kids told you, I was in the hospital
5 that week. I was sick. Because I wasn't able to
6 go over there and observe her myself.

7 Q. But her legs were bothering her for
8 a while?

9 A. Yes, a while, yes.

10 Q. My question is, did you feel by her
11 having the dropped foot and swelling, did you
12 think that was going to lead --

13 A. I couldn't understand how people
14 could get a dropped foot. That I didn't
15 understand.

16 Q. You were concerned about what the
17 dropped foot was and how that could be corrected?

18 A. Yes. I knew she needed not sitting
19 in the chair for so many hours without being
20 exercised and walked around. By me being sick, I
21 wasn't there in the end to even complain.

22 Q. My question is specifically, did
23 you think that the swelling in her legs was going
24 to lead to a blood clot that would travel to a
25 lung or to any other part of her body and kill

1 V, YOUNG

2 her? Were you concerned about that?

3 A. Yes, I was concerned.

4 MR. KAISER: Objection.

5 A. But I told you I was sick and the
6 last few weeks I couldn't get there. Because if
7 I had been able to go visit her, I would have
8 brought that to the attention of Dr. Milos
9 myself. They got nurses around there. Those
10 nurses are -- if the staff even told them things,
11 it should be documented, you write nurse's notes
12 and Dr. Milos is supposed to check it.

13 Q. I am trying to find out, what
14 concerns you have leading up to Valerie Young's
15 death.

16 When you saw the swelling, at that
17 point were you concerned or afraid she would have
18 a blood clot that would kill her related to the
19 swelling in her legs?

20 MR. KAISER: Objection. Asked and
21 answered.

22 MR. VELEZ: She is not really
23 answering.

24 MR. KAISER: She said she was
25 concerned.

1 V, YOUNG

2 A. I told you I was concerned.

3 Q. You specifically knew ahead of time
4 that she would have a blood clot --

5 MR. KAISER: Objection.

6 A. I didn't know that she would have a
7 blood clot. How would I know? I am not a
8 doctor. I didn't know that. I am just a nurse's
9 assistant. I worked in oncology. I see these
10 thing. We had to make nurse's notes if we
11 observed something.

12 Q. My question now is, do you think
13 any of the defendants knew that the swelling of
14 Valerie's leg would create a blood clot that
15 would kill her?

16 MR. KAISER: Objection.

17 A. I can't tell you what they know.
18 You keep on ask asking me the same question over
19 and over.

20 Q. No. I am asking you now about any
21 of the defendants. My question is, I will repeat
22 it again, do you believe any of the defendants
23 when they knew that Valerie had the drooped foot
24 and the swelling that you mentioned, did any of
25 them knew that this was a condition that might